

Lynda J. Zadra-Symes (SBN 156,511)
 Lynda.Zadra-Symes@kmob.com
 Jeffrey L. Van Hoosear(SBN : 147,751)
 Jeffrey.VanHoosear@kmob.com
 David G. Jankowski (SBN 205,634)
 David.iankowski@kmob.com
 KNOBBE, MARTENS, OLSON & BEAR, LLP
 2040 Main Street
 Fourteenth Floor
 Irvine, CA 92614
 Phone: (949) 760-0404
 Facsimile: (949) 760-9502

Attorneys for Defendant/Counter-Plaintiff,
 KEATING DENTAL ARTS, INC.

IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION

JAMES R. GLIDEWELL DENTAL
 CERAMICS, INC. dba GLIDEWELL
 LABORATORIES,

Plaintiff,

v.

KEATING DENTAL ARTS, INC.

Defendant.

AND RELATED COUNTERCLAIMS.

Civil Action No.
 SACV11-01309-DOC(ANx)

**DECLARATION OF DR.
 RICHARD SCOTT IN
 SUPPORT OF KEATING
 DENTAL ARTS, INC.'S
 MOTIONS FOR SUMMARY
 JUDGMENT**

Honorable David O. Carter

1 I, Dr. Richard Scott, hereby declare as follows:

2 I am a practicing dentist who has purchased dental restorations from
3 Keating Dental Arts, Inc. ("Keating"). My dental office is located at 215 N.
4 State College Blvd., Suite E, Anaheim, CA 92806. I have personal knowledge
5 of the matters set forth herein. If called upon to testify, I could and would
6 testify as follows:

7 1. I am licensed to practice dentistry in the state of California. I
8 received an undergraduate degree from Fresno State University in 1962 even
9 though I began my dental school education in 1960. In 1964, I received a
10 Doctor of Dental Surgery from the University of Pittsburg. I have been
11 practicing as a licensed dentist for 48 years. During that time, it has been a
12 regular part of my practice to treat patients in need of dental restorations.

13 2. To address my patients in need of dental restorations, it has been
14 my practice to purchase crowns and bridges from dental laboratories that
15 manufacture the restorations in response to my specifications. In this regard, I
16 provide the dental laboratories with a prescription form that identifies the
17 patient, the tooth (or teeth), and the specific dental restoration product that I
18 would like manufactured for the patient.

19 3. Since my dental practice began in 1964, I have ordered dental
20 restorations from a number of different dental laboratories. I have been ordering
21 dental restorations from Keating since May 2010. I am aware of Glidewell
22 Laboratories and its dental restoration products. I have ordered these products
23 from Glidewell in the past but found their quality to be spotty. I have found
24 Keating's quality to be consistent which is why I currently order from Keating.

25 4. I have ordered many different types of dental restorations from
26 Keating, including porcelain-fused-to-metal crowns, gold crowns, and crowns
27 containing zirconia.

28 5. The first time I ordered a crown containing zirconia from Keating

1 was in December 2010 when I ordered a “KDZ” crown. In 2010, Keating’s
2 “KDZ” crown had a zirconia substructure with a porcelain overlay.

3 6. The first time I ordered a full contour zirconia crown from Keating
4 was in May 2011 when I ordered what Keating calls a KDZ Bruxer crown. I
5 ordered Keating’s KDZ Bruxer crown for a patient where I wanted greater
6 strength in the molar region of the mouth than I would get from a crown with a
7 porcelain overlay.

8 7. I learned of Keating’s KDZ Bruxer product from marketing
9 materials Keating sent to me as a customer of their lab.

10 8. More recently, in August 2012, I ordered a KDZ Bruxer crown
11 from Keating for tooth #2 for one of my patients. Attached as **Exhibit A** is a
12 true and correct copy of the Keating Dental Arts prescription form that I
13 submitted to Keating for this order.

14 9. In the order form attached as Exhibit A, I specified the product that
15 I was ordering by writing “#2 Bruxir” in the “Instructions” section of the form. I
16 wrote “Bruxir” on the prescription form because to me that term meant a full
17 contour zirconia crown for bruxers. I knew I was ordering the crown from
18 Keating and I wanted to receive a crown made by Keating.

19 10. When I wrote “Bruxir” on the prescription form, I did not intend to
20 order a crown made by Glidewell Laboratories. Nor did I intend to order a
21 crown made from material provided by Glidewell Laboratories. When ordering
22 the KDZ Bruxer crown, I did not think there was any affiliation between
23 Keating and Glidewell Laboratories.

24 11. When all zirconia crowns were first introduced in the dental
25 industry, I learned that they were basically unbreakable and able to withstand
26 the forces created by a bruxer, or patient with bruxism. I associated the
27 functionality of the crowns being useful on bruxers with the name “bruxer”
28 crown, or similarly, “bruxzir” crown or “bruxir” crown. I understand these

1 terms to all carry the same meaning as they are pronounced the same and
2 describe a crown strong enough to use on a patient who bruxes. The "zir" in
3 "bruxzir" identifies that it is made out of zirconia. To me, these terms do not
4 identify any specific company or any specific company's product.

5 12. Soon after sending the prescription form attached as Exhibit A to
6 Keating, I was contacted by a Keating employee to clarify my order.
7 Specifically, the Keating employee asked me to confirm that I wanted to order
8 Keating's KDZ Bruxer product. The Keating employee explained that the term
9 "BruxZir" is a brand name of another dental laboratory, and the employee
10 offered to return the order to me if I wanted to order from another dental
11 laboratory. I confirmed that I wanted to order Keating's full contour zirconia
12 crown.

13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.

15 Executed November 6, 2012, in Anaheim, California.

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18 
19 Dr. Richard Scott
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EXHIBIT A



Keating
Dental Arts
Creating smiles everyday™

16881 Hale Avenue, Irvine, CA, 92606
Email: shade@keatingdentalarts.com

800-433-9833
Fax 949-955-2199

Doctor's Account # **SCOR** Phone # (714) 635-0892
Dr. **DR. RICHARD SCOTT**

Patient **REDACTED**

Date Due In Office **8/16/12**

PLEASE SEND:

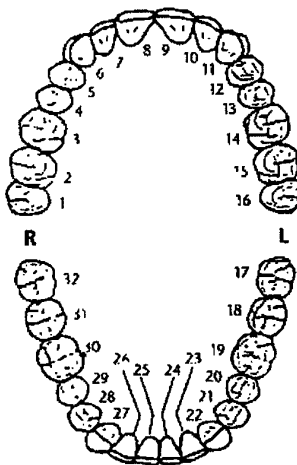
☐ RX forms ☐ Boxes ☐ Mailing labels

ENCLOSURES
LAB USE ONLY

☐ Photo(s) ☐ Analog ☐ Models
☐ Implant parts ☐ Impression ☐ Bite
☐ Shade lab ☐ Other

RX SPECIFIC INSTRUCTIONS
* Standard unless specified

#2 BRUXIV
#14 EMAX



Signature: Richard Scott 18189

TERMS: Customer agrees to company policy as stated on reverse.

Age: 70 Sex: male
☐ Dr. to die trim ☐ Metal try-in
☐ Finish to porcelain

Please indicate the distribution of hues and the types of characteristics desired:

SHADE INSTRUCTIONS

Vita-Lumin: A-3.5
Noritake: _____
Vita-3D: _____
Stump shade: _____



BUCCAL COLLAR DESIGN

- ☐ Hairline or _____mm buccal
☐ Porcelain junction margin*
☐ Porcelain butt margin (90° shoulder required)

IF NO OCCLUSAL CLEARANCE

- ☐ Metal occlusion
☐ Reduction coping
☐ Spot opposing
☐ Make permanent note

ANTERIOR DESIGN

- ☐ 1/4 Metal lingual
☐ 1/2 Metal lingual
☐ 3/4 Metal lingual

METAL DESIGN

- ☐ All porcelain coverage
☐ Metal coping with porcelain coverage*
☐ Metal occlusal excluding buccal CUSP
☐ Metal occlusal including buccal CUSP

OCCLUSAL STAINING

- ☐ None ☐ Light*
☐ Medium ☐ Dark

PONTIC DESIGN

- ☐ Modified ridge lap*
☐ Full ridge lap
☐ Sanitary
☐ Bullet
☐ Ovate
☐ KDA Denture
☐ KDA Premium Denture
☐ KDA Ultra Premium Denture
☐ Locator retained
☐ Bar retained (Titanium bar)
☐ Screw retained hybrid (Titanium bar)

REMOVABLES

- ☐ TCS*/Valplast* Partial Complete
☐ TCS*/Bego
☐ Valplast*/Bego
☐ Cast chrome
☐ Acrylic stayplate
☐ Delineator™
☐ Lab select complete design
☐ Frame try-in
☐ Frame w/occlus. rim
☐ Frame w/set-up try-in
☐ Finish

PFM

- ☐ Non-precious*
☐ Semi-precious
☐ White high noble
☐ Yellow high noble
☐ Captek™

IMPLANTS

- CROWN**
☐ PFM- Semi-precious*
☐ PFM- White high noble
☐ Full cast yellow semi-precious
☐ Captek™
☐ High noble 56
☐ KDA Max
☐ KDA Ultra
☐ IPS® e.max

ABUTMENT
Atlantis™

- ☐ Titanium* ☐ Gold-hue
☐ Zirconia
☐ Titanium ☐ Zirconia
☐ Gold anodized
☐ Custom UCLA

FULL CAST

- ☐ High Noble 56-Type III
☐ Gold inlay/onlay-Type II (JRVT)
☐ White High Noble
☐ White semi-precious
☐ Yellow semi-precious

METAL-FREE RESTORATIONS

KDZ Family (CAD/CAM)

- ☐ KDZ Bruxer
☐ KDZ Max
☐ KDZ Ultra*
☐ Procera®

Pressables

- ☐ IPS® Empress Esthetic
☐ Stained & glazed only*
☐ Cut-back & layered
☐ Stump shade required
☐ IPS® e.max
☐ Stained & glazed only*
☐ Cut-back & layered
☐ Stump shade required

Veneers

- ☐ KDA Foil Veneers (Stacked feldspathic porcelain)
☐ IPS® Empress Esthetic*
☐ IPS® e.max
☐ Stump shade required

KDA TEMPS

- ☐ Diagnostic wax-up
Abutments #s: _____
Pontics #s: _____
☐ Wire* ☐ Cast metal frame
☐ Splinted ☐ Individual

APPLIANCES

- ☐ Night Guard - Astron CLEARsplint™
☐ Night Guard - Hard Thermoformed
☐ Bleaching Tray
☐ Foam liner
☐ Reservoir
☐ Clear Pro-Guard
☐ Night Guard - Hard Hand Waxed
☐ Night Guard - Soft
☐ Ultra Guard (hard/soft)
☐ 1.0 mil Clear Ortho Retainer